

The Leave Issue

Leave, its use, abuse, availability, types and processing, continues to be a significant topic for County employees and their managers. Employees, of course, want to be able to use their leave when they choose to, and managers and supervisors need to consider operational need and appropriate leave use in their decisions. Operational need, workload, under-staffing, customer service all affect leave decisions. Yet, everyone recognizes that employees should be able to use their leave and that leave is an important and valuable benefit. Everyone would like easy answers to their questions. Supervisors and managers are sometimes frustrated that they cannot find easy answers in the CBAs or the regulations. But, often, there are not easy answers. Many times, whether an employee's leave request should be granted, or whether a situation constitutes leave "abuse," depends upon the specific circumstances. That is why it is so important for supervisors and managers to consult with their resources, including their OHR Labor/Employee Relations Team contact. With this issue of L/ER Connections, we attempt to provide you with information that we hope helps you address at least some of the challenges that you face in addressing leave issues.

Did you know...

Open Enrollment for 2014 Begins Monday, October 21, 2013

Open Enrollment is the time of year employees can make group insurance changes for the next calendar year, and it's right around the corner! Open Enrollment for 2014 will be held on Monday, October 21 beginning at 8:00 a.m. through Tuesday, November 12 at 5:00 p.m. All changes and any required paperwork must be received by Tuesday, November 12 at 5 p.m. No changes and not enrolling in a Flexible Spending Account after reading your materials? No need to do anything.

Reminder: Employees who want to participate in an FSA for 2014 must make an election during Open Enrollment. Information about these tax saving accounts will be available on your Open Enrollment Home Page beginning October 21.

Labor & Employee Relations News

- *Negotiations are gearing up for the fall. This season we will be negotiating with the representatives of the volunteer fire fighters – MCVFRA. All other bargaining teams get a year off!*
- *This month we said farewell to one of our team members, Jeremy Milewski. He accepted a new job outside of the County. We will shortly begin recruiting to fill the vacancy.*
- *Subcommittees have been busy at work recently. Please stay tuned for updates on the Sick Leave Bank and the Conflict Facilitation Process for MCGEO members.*
- ***Remember to set your clocks back in November. Daylight Savings Time ends November 3rd!***

~Labor & Employee Relations Team~

Labor Relations: Sarah Cook, Lasantha Dahanaïke, George Lacy (Police Labor Manager), Jackie LaRocca, Stuart Weisberg, Teresa White, Mike Woodruff, Steve Sluchansky (L/ER Manager)

EEO: Angela Washington (EEO Officer), and Patricia Miller

Disability Program Manager: Ricky Wright

Executive Office Building. Office of Human Resources. 7th Floor. 101 Monroe Street. Rockville MD 20850

LER Connections

Leave Issues FAQs

(These questions are based upon actual questions received by OHR.)

What happens if I do not approve or deny a leave request within 5 days? Is the leave considered approved?

The absence of a reply from the supervisor to a request for leave does not constitute approval of such leave. "Silence is golden" does not apply here. Employees choosing to take leave without the authorization of the supervisor would be considered "absent without approved leave." The operative word being "approved." As clearly stated in the County/MCGEO CBA, "supervisors shall approve or deny annual leave requests within five (5) business days from receipt thereof." This means that the supervisor must take an action to either approve or deny within the required time limit. Failure to take such action is a clear violation of the employee's rights under the CBA and might be subject to a grievance.

If an employee requests leave without giving the supervisor five days turnaround time, can the request be disapproved?

While there are circumstances where a short notice request for annual leave may be denied (a demonstrated operational need, minimum coverage requirements, etc.), lack of 5 days notice is not grounds for a denial of the request. The CBA requires that a supervisor take no more than 5 days to respond to a request. There is not, however, a minimum notice requirement for the employee making the request. The same standards apply to short notice annual leave request as all other annual leave requests. Every reasonable effort must be made to provide an employee the opportunity to take the leave as requested. Every situation is unique. Supervisors who have questions concerning the application of policies and procedures surrounding Annual Leave should contact their Labor Relations Specialist for assistance.

What constitutes sick leave abuse?

There are several circumstances that often occur and may indicate sick leave abuse: if an employee shows a pattern over time of using sick leave (such as in conjunction with weekends, holidays, annual leave), and the supervisor has reason to believe that neither the employee nor their family member was sick, that could be a sign of sick leave abuse; also, using sick leave for reasons other than what is outlined in the collective bargaining agreements and personnel regulations. However, just using a lot of sick leave does not constitute abuse. If the employee is using the sick leave for valid illness and for the allowed reasons outlined in the CBA, then it is not abuse.

An employee has no accrued sick leave and calls in sick. Can the supervisor direct the employee to report to work? If the employee fails to report, can the employee be charged AWOL and disciplined?

If an employee is legitimately sick, the supervisor should not require the employee to report to work. The lack of accrued sick leave, in and of itself, does not indicate that the employee's reasons for using sick leave are not legitimate. However, the circumstances may lead to the supervisor placing the employee on sick leave restriction.

When can a supervisor place an employee on sick leave restriction?

A supervisor can place an employee on sick leave restriction whenever misuse or abuse of sick leave is suspected. Additionally, if an employee is showing a pattern of taking sick leave that appears suspicious, sick leave restriction may be appropriate. There is no minimum number of occurrences to constitute a pattern. Supervisors should use their judgment and contact their Labor Relations Specialist, if they have any questions. It is important to note that an employee must be informed of the sick leave restriction and its requirements prior to the first absence for which medical documentation must be provided.

Top 10 MCGEO CBA Leave Provisions

1. **Every effort** must be made to give each employee the opportunity to use annual leave earned. (Article 14.6)
2. Supervisors shall approve or deny annual leave requests **within five (5) business days** from receipt thereof. (Article 14.6)
3. The County will schedule vacation days of employees, provided however that employee timely vacation preferences will be honored on a **seniority basis** when the County determines that **services and operating efficiency are not substantially impaired**. (Article 14.7)
4. Accrued sick leave may be used for the reasons stated in Section 15.1 of this Agreement, **if approved by an employee's supervisor, in accordance with established procedures**. (Article 15.6 (a))
5. Supervisors may require medical certification from a licensed physician in the event an employee's **absence is in excess of 5 consecutive work days**. (Article 15.6 (d))
6. Supervisors may require an employee to provide medical certification from the employee's licensed health care provider **any time misuse/abuse is suspected**. Employees must be given prior notice as to the requirement to provide certification for future absences. The period for which certification is required will be at the discretion of the supervisor. (Article 15.6 (e))
7. **Leave without pay is a privilege** that may be granted to an employee at the discretion of the Chief Administrative Officer or other designated official. However, an employee must be allowed to use leave without pay for FMLA purposes in accordance with Article 45 of this Agreement. (Article 16.2)
8. The Department Director **must approve leave without pay** for an eligible employee if the requested leave is: **(1) FMLA leave; (2) parental leave; (3) military leave; or (4) political leave**. (Article 16.5)
9. **Employees may not take leave they have not accrued**. (Articles 14.1, 15.1)
10. All accumulated leave in excess of the authorized maximum is forfeited at the end of the leave year. ... **However, if the Employer has denied an employee the opportunity to use leave** in excess of the maximum allowable accumulation during that leave year, **that amount may be carried over for a period of one year**, even if in excess of the maximum allowable accumulation but must be forfeited to sick leave if not used during that period. (Article 14.9)
(emphasis added by L/ER Connections)

Get to know the Specialist: Patricia Miller

[Each issue, we will highlight a member of the L/ER Team.]

Patricia Yvette Miller, born Patrisia Hildegard Bobot in Hanau Germany, was adopted by a military family and brought to the United States where she became an American citizen in 1966. Patricia graduated from Eastern New Mexico University with a BS in Sociology, emphasis in Criminal Justice and Political science. Upon graduating, she attended the Prince George's County Police Academy and became a Police Officer. Patricia served as a Patrol Officer and worked in Community Policing on the County's "Action Team." In 1989, Patricia retired from the Police department and began working for the Prince George's County Human Relations Commission as an employment investigator. Patricia began as an Investigator working for the Montgomery County Government Human Rights Commission in 2005. She currently works in the Office of Human Resources/EEO Compliance and Diversity Management Division. Martin Niemoller's words have echoed throughout Patricia's life:

First they came for the Communists
And I did not speak out
Because I was not a Communist
Then they came for the Socialists
And I did not speak out
Because I was not a Socialist
Then they came for the trade unionists
And I did not speak out
Because I was not a trade unionist
Then they came for the Jews
And I did not speak out
Because I was not a Jew
Then they came for me
And there was no one left
To speak out for me



LER Connections

FMLA Quiz

Think you know a lot about FMLA? Test your knowledge with this quiz.

1. **FMLA stands for?**
 - a. Friday and Monday Leave Act.
 - b. Family and Medical Leave Act.
 - c. Fred and Mary Love Aruba.
2. **How long does an employee have to work for MCG to qualify for FMLA?**
 - a. It depends on the employee's age and retirement eligibility
 - b. Ten years
 - c. Twelve months
3. **Which of the following does NOT qualify an employee for FMLA leave?**
 - a. The employee's serious health condition
 - b. Birth, adoption or placement of a child
 - c. An employee's pet's serious health condition
4. **How many regular hours in the 12 months prior to an employee's FMLA leave request must the employee have worked with MCG to qualify for FMLA?**
 - a. 40 b. 1040 c. 2040
5. **Can an employee apply for FMLA leave for the employee's own condition and a family member's condition in the same year?**
 - a. No, it must be one or the other.
 - b. Yes, but the total leave cannot exceed 12 weeks.
 - c. Yes, each event allows for the employee to take 12 weeks.
6. **Gomez Addams has lots of sick relatives. Which of the following family members can Gomez not use FMLA for?**
 - a. his wife Morticia
 - b. daughter Wednesday
 - c. uncle Fester
7. **How much leave is allowed under FMLA?**
 - a. Twelve weeks each calendar year
 - b. Six months each fiscal year
 - c. Twelve months any year
8. **Do all twelve weeks have to be used at once?**
 - a. Yes. b. No, it can be used in a block and/or intermittently.
9. **What is family sick leave?**
 - a. up to 15 days of accrued sick leave that can be used to care for a sick family member
 - b. it allows you to use leave when you are sick of your family.
 - c. a form of sick leave to care for sick children who attend public elementary school
10. **Which of the following does NOT qualify an employee for FMLA leave?**
 - a. Caring for a military service member
 - b. An employee who has been with MCG for 6 months
 - c. An employee's family member with a serious health condition.
11. **What may trigger FMLA leave?**
 - a. If an employee is absent due to any of the qualifying events.
 - b. The absences are continuous or there is an ongoing pattern.
 - c. a. and/or b.
12. **How does an employee submit a request for FMLA leave?**
 - a. Submit an FMLA leave request form to OMS
 - b. Submit medical documentation to OMS within 15 days of initial request
 - c. a. and b.
13. **My employee is out on a work related injury. The recovery time for this injury will last for at least 15 days. Should I designate their time out as FMLA leave?**
 - a. yes, because it is considered a medical condition that keeps the employee from work
 - b. no, it is work related so it doesn't count as FMLA leave
 - c. I never did before so why should I now?